



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Ruth F. Eden **October 31, 2003**
Serial No.: 09/763,578 **Art Unit:** 1641
Filed: 07/28/2001 **Examiner:** Bao Thuy L. Nguyen
For: METHOD AND DEVICE FOR CONCENTRATING SELECTED GROUPS
OF MICROORGANISMS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO EXAMINER'S ACTION DATED JULY 30, 2003

Sir:

In response to the examiner's action, the specification and claims have been amended as shown on the attached pages.

Claims 1-13 have been rejected as indefinite. Reconsideration is respectfully requested in view of the attached amendments and following considerations.

The examiner's suggestions with respect to independent claims 1 and 5 are well taken but I believe would be unduly restrictive. The string or rod attached to the top of the grid are probably the easiest and cheapest means for inserting the grid and beads into the liquid suspension, broth or solution, agitating the grid and beads and removing the grid and beads; however, there are many other means that can easily be envisioned. For example, the rod might be rigidly attached to the grid near the bottom of the grid or a separate ladle-like device might be used to insert, agitate and remove the grid. Thus, I believe the additional limitations to claims 1 and 5 would be unduly restrictive, especially in view of the famous "Festo" court (CAFC and U.S. Supreme Court) decisions.

The word "material" has been added to line 4 of claim 5, as suggested by the examiner.

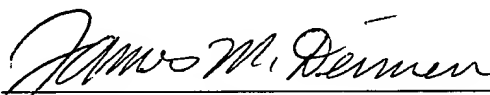
Rather than amend claims 1 and 5, I have added dependent claims 14 and 15 utilizing the language suggested by the examiner.

With respect to claim 13 and the examiner's suggested amendment to the specification on page 5, the following paragraph beginning on line 10 of page 5 describes a test that does not require separation of the beads from the enclosure or grid. Therefore, I have added a sentence to line 9 rather than the examiner's suggestion.

With the amendments, the application is now believed in order for allowance.

Respectfully submitted,

RUTH F. EDEN

By, 

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